

E2SHB 1701 - S COMM AMD

By Committee on Ways & Means

NOT ADOPTED 4/16/2009

1 Strike everything after the enacting clause and insert the
2 following:

3
4 "NEW SECTION. **Sec. 1.** (1) The legislature finds that the
5 deployment and adoption of high-speed internet services and technology
6 advancements enhance economic development and public safety for the
7 state's communities. Such deployment also offers improved health
8 care, access to consumer and legal services, increased educational and
9 civic participation opportunities, and a better quality of life for
10 the state's residents. The legislature further finds that
11 improvements in the deployment and adoption of high-speed internet
12 services and the strategic inclusion of technology advancements and
13 technology education are critical to ensuring that Washington remains
14 competitive and continues to provide a skilled workforce, attract
15 businesses, and stimulate job growth.

16 (2) The legislature intends to support strategic partnerships of
17 public, private, nonprofit, and community-based sectors in the
18 continued growth and development of high-speed internet services and
19 information technology. The legislature further intends to ensure
20 that all Washington citizens, businesses, schools, and organizations
21 are able to obtain and utilize broadband fully, regardless of
22 location, economic status, literacy level, age, disability, structure,
23 or size. In addition, the legislature intends that a statewide
24 assessment of the availability, location, service levels, and other
25 characteristics of high-speed internet services and other advanced
26 telecommunications services in the state be conducted.

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1 (3) In recognition of the importance of broadband deployment and
2 adoption to the economy, health, safety, and welfare of the people of
3 Washington, it is the purpose of this act to make high-speed internet
4 service more readily available throughout the state, especially in
5 areas with a low utilization rate.

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7 NEW SECTION. **Sec. 2.** (1) The broadband mapping account is
8 established in the custody of the state treasurer. The department
9 shall deposit into the account such funds received from legislative
10 appropriation, federal grants authorized under the federal broadband
11 data improvement act, P.L. 110-385, Title I, and donated funds from
12 private and public sources. Expenditures from the account may be used
13 only for the purposes of sections 3 through 5 of this act. Only the
14 director of the department or the director's designee may authorize
15 expenditures from the account. The account is subject to the
16 allotment procedures under chapter 43.88 RCW, but an appropriation is
17 not required for expenditures.

18 (2) The department of information services is the single eligible
19 entity in the state for purposes of the federal broadband data
20 improvement act, P.L. 110-385, Title I.

21 (3) Funding received by the department under the federal broadband
22 data improvement act, P.L. 110-385, Title I, must be used in
23 accordance with the requirements of that act and, subject to those
24 requirements, may be distributed by the department on a competitive
25 basis to other entities in the state to achieve the purposes of that
26 act.

27 (4) The department of information services shall consult with the
28 department of community, trade, and economic development or its
29 successor agency, the office of financial management, and the
30 utilities and transportation commission in coordinating broadband
31 mapping activities. In carrying out any broadband mapping activities,
32 the provisions of P.L. 110-385, Title I, regarding trade secrets,
33 commercial or financial information, and privileged or confidential

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1 information submitted by the federal communications commission or a
2 broadband provider are deemed to encompass the consulted agencies.

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4 NEW SECTION. **Sec. 3.** (1) Subject to the availability of federal
5 or state funding, the department may:

6 (a) Develop an interactive web site to allow residents to self-
7 report whether high-speed internet is available at their home or
8 residence and at what speed; and

9 (b) Conduct a detailed survey of all high-speed internet
10 infrastructure owned or leased by state agencies and creating a
11 geographic information system map of all high-speed internet
12 infrastructure owned or leased by the state.

13 (2) State agencies responding to a survey request from the
14 department under subsection (1)(b) of this section shall respond in a
15 reasonable and timely manner, not to exceed one hundred twenty days.
16 The department shall request of state agencies, at a minimum:

17 (a) The total bandwidth of high-speed internet infrastructure
18 owned or leased;

19 (b) The cost of maintaining that high-speed internet
20 infrastructure, if owned, or the price paid for the high-speed
21 internet infrastructure, if leased; and

22 (c) The leasing entity, if applicable.

23 (3) The department may adopt rules as necessary to carry out the
24 provisions of this section.

25 (4) For purposes of this section, "state agency" includes every
26 state office, department, division, bureau, board, commission, or
27 other state agency.

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29 NEW SECTION. **Sec. 4.** (1) The department is authorized, through a
30 competitive bidding process, to procure on behalf of the state a
31 geographic information system map detailing high-speed internet
32 infrastructure, service availability, and adoption. This geographic
33 information system map may include adoption information, availability
34 information, type of high-speed internet deployment technology, and

1 available speed tiers for high-speed internet based on any publicly
2 available data.

3 (2) The department may procure this map either by:

4 (a) Contracting for and purchasing a completed map from a third
5 party; or

6 (b) Working directly with the federal communications commission to
7 accept publicly available data.

8 (3) The department shall establish an accountability and oversight
9 structure to ensure that there is transparency in the bidding and
10 contracting process and full financial and technical accountability
11 for any information or actions taken by a third-party contractor
12 creating this map.

13 (4) In contracting for purchase of the map in subsection (2)(a) of
14 this section, the department may take no action, nor impose any
15 condition on the third party, that causes any record submitted by a
16 public or private broadband service provider to the third party to
17 meet the standard of a public record as defined in RCW 42.56.010.
18 This prohibition does not apply to any records delivered to the
19 department by the third party as a component of the completed map.
20 For the purpose of RCW 42.56.010(2), the purchase by the department of
21 a completed map may not be deemed use or ownership by the department
22 of the underlying information used by the third party to complete the
23 map.

24 (5) Data or information that is publicly available as of the
25 effective date of this section will not cease to be publicly available
26 due to any provision of this act.

27
28 NEW SECTION. **Sec. 5.** (1) The department, in coordination with
29 the department of community, trade, and economic development and the
30 utilities and transportation commission, and such advisors as the
31 department chooses, may prepare regular reports that identify the
32 following:

33 (a) The geographic areas of greatest priority for the deployment
34 of advanced telecommunications infrastructure in the state;

1 (b) A detailed explanation of how any amount of funding received
2 from the federal government for the purposes of broadband mapping,
3 deployment, and adoption will be or have been used; and

4 (c) A determination of how nonfederal sources may be utilized to
5 achieve the purposes of broadband mapping, deployment, and adoption
6 activities in the state.

7 (2) To the greatest extent possible, the initial report should be
8 based upon the information identified in the geographic system maps
9 developed under the requirements of this chapter.

10 (3) The initial report should be delivered to the appropriate
11 committees of the legislature as soon as feasible, but no later than
12 January 18, 2010.

13 (4) Future reports based upon the requirements of subsection (1)
14 of this section should be delivered to the appropriate committees of
15 the legislature by January 15th of each year.

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17 **Sec. 6.** RCW 28B.32.010 and 2008 c 262 s 6 are each amended to
18 read as follows:

19 The community technology opportunity program is created to support
20 the efforts of community technology programs throughout the state.
21 The community technology opportunity program must be administered by
22 the ~~((Washington State University extension, in consultation with~~
23 ~~the))~~ department of information services. The ~~((Washington State~~
24 ~~University extension))~~ department may contract for services in order
25 to carry out the ~~((extension's))~~ department's obligations under this
26 section.

27 (1) In implementing the community technology opportunity program
28 the administrator must, to the extent funds are appropriated for this
29 purpose:

30 (a) Provide organizational and capacity building support to
31 community technology programs throughout the state, and identify and
32 facilitate the availability of other public and private sources of
33 funds to enhance the purposes of the program and the work of community
34 technology programs. No more than fifteen percent of funds received

1 by the administrator for the program may be expended on these
2 functions;

3 (b) Establish a competitive grant program and provide grants to
4 community technology programs to provide training and skill-building
5 opportunities; access to hardware and software; internet connectivity;
6 digital media literacy; assistance in the adoption of information and
7 communication technologies in low-income and underserved areas of the
8 state; and development of locally relevant content and delivery of
9 vital services through technology.

10 (2) Grant applicants must:

11 (a) Provide evidence that the applicant is a nonprofit entity or a
12 public entity that is working in partnership with a nonprofit entity;

13 (b) Define the geographic area or population to be served;

14 (c) Include in the application the results of a needs assessment
15 addressing, in the geographic area or among the population to be
16 served: The impact of inadequacies in technology access or knowledge,
17 barriers faced, and services needed;

18 (d) Explain in detail the strategy for addressing the needs
19 identified and an implementation plan including objectives, tasks, and
20 benchmarks for the applicant and the role that other organizations
21 will play in assisting the applicant's efforts;

22 (e) Provide evidence of matching funds and resources, which are
23 equivalent to at least one-quarter of the grant amount committed to
24 the applicant's strategy;

25 (f) Provide evidence that funds applied for, if received, will be
26 used to provide effective delivery of community technology services in
27 alignment with the goals of this program and to increase the
28 applicant's level of effort beyond the current level; and

29 (g) Comply with such other requirements as the administrator
30 establishes.

31 (3) The administrator may use no more than ten percent of funds
32 received for the community technology opportunity program to cover
33 administrative expenses.

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1 (4) The administrator must establish expected program outcomes for
2 each grant recipient and must require grant recipients to provide an
3 annual accounting of program outcomes.

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5 **Sec. 7.** RCW 43.105.020 and 2003 c 18 s 2 are each amended to read
6 as follows:

7 (~~As used in this chapter, unless the context indicates otherwise,~~
8 ~~the following definitions shall apply:~~) The definitions in this
9 section apply throughout this chapter unless the context clearly
10 required otherwise.

- 11 (1) "Department" means the department of information services;
- 12 (2) "Board" means the information services board;
- 13 (3) "Committee" means the state interoperability executive
14 committee;
- 15 (4) "Local governments" includes all municipal and quasi municipal
16 corporations and political subdivisions, and all agencies of such
17 corporations and subdivisions authorized to contract separately;
- 18 (5) "Director" means the director of the department;
- 19 (6) "Purchased services" means services provided by a vendor to
20 accomplish routine, continuing, and necessary functions. This term
21 includes, but is not limited to, services acquired for equipment
22 maintenance and repair, operation of a physical plant, security,
23 computer hardware and software installation and maintenance,
24 telecommunications installation and maintenance, data entry, keypunch
25 services, programming services, and computer time-sharing;
- 26 (7) "Backbone network" means the shared high-density portions of
27 the state's telecommunications transmission facilities. It includes
28 specially conditioned high-speed communications carrier lines,
29 multiplexors, switches associated with such communications lines, and
30 any equipment and software components necessary for management and
31 control of the backbone network;
- 32 (8) "Telecommunications" means the transmission of information by
33 wire, radio, optical cable, electromagnetic, or other means;

1 (9) "Information" includes, but is not limited to, data, text,
2 voice, and video;

3 (10) "Information processing" means the electronic capture,
4 collection, storage, manipulation, transmission, retrieval, and
5 presentation of information in the form of data, text, voice, or image
6 and includes telecommunications and office automation functions;

7 (11) "Information services" means data processing,
8 telecommunications, office automation, and computerized information
9 systems;

10 (12) "Equipment" means the machines, devices, and transmission
11 facilities used in information processing, such as computers, word
12 processors, terminals, telephones, wireless communications system
13 facilities, cables, and any physical facility necessary for the
14 operation of such equipment;

15 (13) "Information technology portfolio" or "portfolio" means a
16 strategic management process documenting relationships between agency
17 missions and information technology and telecommunications
18 investments;

19 (14) "Oversight" means a process of comprehensive risk analysis
20 and management designed to ensure optimum use of information
21 technology resources and telecommunications;

22 (15) "Proprietary software" means that software offered for sale
23 or license;

24 (16) "Video telecommunications" means the electronic
25 interconnection of two or more sites for the purpose of transmitting
26 and/or receiving visual and associated audio information. Video
27 telecommunications shall not include existing public television
28 broadcast stations as currently designated by the department of
29 community, trade, and economic development under chapter 43.330 RCW;

30 (17) "K-20 educational network board" or "K-20 board" means the K-
31 20 educational network board created in RCW 43.105.800;

32 (18) "K-20 network technical steering committee" or "committee"
33 means the K-20 network technical steering committee created in RCW
34 43.105.810;

1 (19) "K-20 network" means the network established in RCW
2 43.105.820;

3 (20) "Educational sectors" means those institutions of higher
4 education, school districts, and educational service districts that
5 use the network for distance education, data transmission, and other
6 uses permitted by the K-20 board;

7 (21) "Administrator" means the community technology opportunity
8 program administrator designated by the department;

9 (22) "Community technology programs" means programs that are
10 engaged in diffusing information and communications technology in
11 local communities, particularly in unserved and underserved areas of
12 the state. These programs may include, but are not limited to,
13 programs that provide education and skill-building opportunities,
14 hardware and software, internet connectivity, digital media literacy,
15 development of locally relevant content, and delivery of vital
16 services through technology;

17 (23) "Broadband" means a high-speed, high capacity transmission
18 medium, using land-based, satellite, wireless, or any other mechanism,
19 that can carry either signals or transmit data, or both, over long
20 distances by using a wide range of frequencies;

21 (24) "Council" means the advisory council on digital inclusion
22 created in section 10 of this act;

23 (25) "High-speed internet" means broadband;

24 (26) "Underserved areas" means: (a) Areas in which high-speed
25 internet download speeds and upload speeds are significantly below the
26 state norm; (b) any census tract that is located in a federally
27 designated empowerment zone, enterprise community, renewal community,
28 or low-income community; (c) an area with a significant population of
29 economically disadvantaged residents; or (d) an area in which a
30 significant population of the residents are not able to adopt
31 broadband because of disability, affordability of computers or
32 software, or a lack of technological literacy.

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1 **Sec. 8.** RCW 28B.32.030 and 2008 c 262 s 8 are each amended to
2 read as follows:

3 The Washington community technology opportunity account is
4 established in the state treasury. The governor or the governor's
5 designee and the director or the director's designee shall deposit
6 into the account federal grants authorized under Division B, Title VI
7 of the American recovery and reinvestment act of 2009, legislative
8 appropriations, and donated funds from private and public sources for
9 purposes related to broadband deployment and adoption, including
10 matching funds required by the act. Donated funds from private and
11 public sources may be deposited into the account. Expenditures from
12 the account may be used only (~~for~~) as matching funds for federal and
13 other grants to fund the operation of the community technology
14 opportunity program ((as provided in RCW 28B.32.010)) under this
15 chapter and to fund other activities authorized in this act. Only the
16 (~~administrator~~) director or the (~~administrator's~~) director's
17 designee may authorize expenditures from the account.

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19 NEW SECTION. **Sec. 9.** (1) The governor may take all appropriate
20 steps to carry out the purposes of Division B, Title VI of the
21 American recovery and reinvestment act of 2009, P.L. 111-5, and
22 maximize investment in broadband deployment and adoption in the state
23 of Washington consistent with this act. Such steps may include the
24 designation of a broadband deployment coordinator; review and
25 prioritization of grant applications by public and private entities as
26 directed by the national telecommunications and information
27 administration, the rural utility services, and the federal
28 communications commission; disbursement of block grant funding; and
29 direction to state agencies to provide staffing as necessary to carry
30 out this section. The authority for overseeing broadband adoption and
31 deployment efforts in the state is vested in the department.

32 (2) The department may apply for federal funds and other grants or
33 donations, may deposit such funds in the Washington community
34 technology opportunity account created in RCW 28B.32.030 (as

1 recodified by this act), may oversee implementation of federally
2 funded or mandated broadband programs and may adopt rules to
3 administer the programs. These programs may include but are not
4 limited to the following:

5 (a) Engaging in periodic statewide surveys of residents,
6 businesses, and nonprofit organizations concerning their use and
7 adoption of high-speed internet, computer, and related information
8 technology for the purpose of identifying barriers to adoption;

9 (b) Working with communities to identify barriers to the adoption
10 of broadband service and related information technology services by
11 individuals, nonprofit organizations, and businesses;

12 (c) Identifying broadband demand opportunities in communities by
13 working cooperatively with local organizations, government agencies,
14 and businesses;

15 (d) Creating, implementing, and administering programs to improve
16 computer ownership, technology literacy, digital media literacy, and
17 high-speed internet access for populations not currently served or
18 underserved in the state. This may include programs to provide low-
19 income families, community-based nonprofit organizations, nonprofit
20 entities, and public entities that work in partnership with nonprofit
21 entities to provide increased access to computers and broadband, with
22 reduced cost internet access;

23 (e) Administering the community technology opportunity program
24 under chapter 28B.32 RCW (as recodified by this act);

25 (f) Creating additional programs to spur the development of high-
26 speed internet resources in the state;

27 (g) Establishing technology literacy and digital inclusion
28 programs and establishing low-cost hardware, software, and internet
29 purchasing programs that may include allowing participation by
30 community technology programs in state purchasing programs; and

31 (h) Developing last-mile technology loan programs targeting small
32 businesses or businesses located in unserved and underserved areas.

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34

1 NEW SECTION. **Sec. 10.** (1) Subject to the availability of federal
2 or state funding, the department may reconvene the high-speed internet
3 work group previously established by chapter 262, Laws of 2008. The
4 work group is renamed the advisory council on digital inclusion, and
5 is an advisory group to the department. The council must include, but
6 is not limited to, volunteer representatives from community technology
7 organizations, telecommunications providers, higher education
8 institutions, K-12 education institutions, public health institutions,
9 public housing entities, and governmental entities that are engaged
10 in community technology activities.

11 (2) The council shall prepare a report by January 15th of each
12 year and submit it to the department, the governor, and the
13 appropriate committees of the legislature. The report must contain:

14 (a) An analysis of how support from public and private sector
15 partnerships, the philanthropic community, and other not-for-profit
16 organizations in the community, along with strong relationships with
17 the state board for community and technical colleges, the higher
18 education coordinating board, and higher education institutions, could
19 establish a variety of high-speed internet access alternatives for
20 citizens;

21 (b) Proposed strategies for continued broadband deployment and
22 adoption efforts, as well as further development of advanced
23 telecommunications applications;

24 (c) Recommendations on methods for maximizing the state's research
25 and development capacity at universities and in the private sector for
26 developing advanced telecommunications applications and services, and
27 recommendations on incentives to stimulate the demand for and
28 development of these applications and services;

29 (d) An identification of barriers that hinder the advancement of
30 technology entrepreneurship in the state; and

31 (e) An evaluation of programs designed to advance digital literacy
32 and computer access that are made available by the federal government,
33 local agencies, telecommunications providers, and business and
34 charitable entities.

1 NEW SECTION. **Sec. 11.** If any part of this act is found to be in
2 conflict with federal requirements that are a prescribed condition to
3 the allocation of federal funds to the state, the conflicting part of
4 this act is inoperative solely to the extent of the conflict and with
5 respect to the agencies directly affected, and this finding does not
6 affect the operation of the remainder of this act in its application
7 to the agencies concerned. Rules adopted under this act must meet
8 federal requirements that are a necessary condition to the receipt of
9 federal funds by the state.

10

11 NEW SECTION. **Sec. 12.** Sections 2 through 5, 9, and 10 of this
12 act are each added to chapter 43.105 RCW.

13

14 NEW SECTION. **Sec. 13.** RCW 28B.32.010, 28B.32.030, 28B.32.900,
15 and 28B.32.901 are each recodified as sections in chapter 43.105 RCW.

16

17 NEW SECTION. **Sec. 14.** The following acts or parts of acts are
18 each repealed:

19 (1) RCW 28B.32.020 (Definitions) and 2008 c 262 s 7; and

20 (2) RCW 43.105.350 (Request for information from providers--
21 Limitation) and 2008 c 262 s 3.

22

23 NEW SECTION. **Sec. 15.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

27

28 NEW SECTION. **Sec. 16.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and takes
31 effect July 1, 2009.

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33 NEW SECTION. **Sec. 17.** (1) If specific funding for the purposes
34 of this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2009, in the omnibus appropriations act, this act
2 is null and void."

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4 **E2SHB 1701** - S COMM AMD

5 By Committee on Ways & Means

6 NOT ADOPTED 4/16/2009

7 On page 1, line 2 of the title, after "activities;" strike the
8 remainder of the title and insert "amending RCW 28B.32.010,
9 43.105.020, and 28B.32.030; adding new sections to chapter 43.105 RCW;
10 creating new sections; recodifying RCW 28B.32.010, 28B.32.030,
11 28B.32.900, and 28B.32.901; repealing RCW 28B.32.020 and 43.105.350;
12 providing an effective date; and declaring an emergency."

EFFECT: Removes the provisions for a Business & Occupation tax credit for firms that contribute to the Washington Community Technology Opportunity Account (WCTOA). Removes the provisions for deposit into the WCTOA of leasehold excise taxes paid by telecommunications firms. Makes technical corrections to references to federal laws and to clarify that the Broadband Mapping Account is created in the custody of the State Treasurer rather than in the state treasury. Adds a null and void clause.

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